

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

SALVATORE F. DIMASI

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

PETITION OF:

Salvatore F. DiMasi
John H. Rogers
Marie P. St. Fleur
Lida E. Harkins
Geoffrey D. Hall
Elizabeth A. Malia
Stephen P. LeDuc
Paul J. Donato

Donald F. Humason, Jr.
Ruth B. Balser
Patricia A. Haddad
Cheryl A. Coakley-Rivera
James J. O'Day
Peter J. Koutoujian
Elizabeth A. Poirier
John A. Lepper



The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO CHILD ABUSE AND NEGLECT

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 17 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “board”, in line 21, the following words:—
, the board on child abuse and neglect.

SECTION 2. Said chapter 6 is hereby further amended by striking out section 17A, as amended by section 1 of chapter 19 of the acts of 2007, and inserting in place thereof the following section:—

Section 17A. There shall be a cabinet, which shall serve under the governor. The cabinet shall consist of the secretary of administration and finance, the secretary of child welfare, the secretary of elder affairs, the secretary of energy and environmental affairs, the secretary of health and human services, the secretary of housing and economic development, the secretary of labor and workforce development, the secretary of public safety and security, the secretary of transportation and public works, and other officers of the executive department that the governor may from time to time designate.

SECTION 3. Section 81 of said chapter 6, as so appearing, is hereby amended by striking out, in line 4, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 4. Section 105 of said chapter 6, as so appearing, is hereby amended by striking out, in line 14, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 5. Section 172B of said chapter 6, as so appearing, is hereby amended by striking out, in lines 3 and 8, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 6. Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in line 112, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 7. Section 189 of said chapter 6, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 8. Said chapter 6 is hereby further amended by striking out section 202, as so appearing, and inserting in place thereof the following section:—

Section 202. There is hereby established a child abuse prevention board, in this section and in section 203 referred to as the board, which shall consist of between 25 and 50 members, including (a) the following 10 ex-officio members: the secretary of child welfare or a designee, the secretary of health and human services or a designee; the secretary of housing and economic

development or a designee, the commissioner of early education and care or a designee, the commissioner of children and families or a designee, the commissioner of mental health or a designee, the commissioner of youth services or a designee, the commissioner of education or a designee, the commissioner of public health or a designee, the commissioner of transitional assistance or a designee, (b) the following 12 persons from the private sector appointed by the governor from recommendations by the board: 1 parent, 1 pediatrician, 1 child psychiatrist, 1 early childhood education specialist, 1 mental health specialist in child abuse, 1 district attorney, 1 teacher, 1 judge, 1 member of the Massachusetts bar, 1 criminal justice professional, 1 social worker from a private child welfare agency and 1 representative of a private charitable foundation, and (c) between 3 and 28 additional members appointed by the governor from recommendations by the board. These individuals shall be appointed based upon their knowledge of and interest in child abuse prevention. The governor shall seek to provide diverse geographical representation, with particular attention given to appointing members who reflect the ethnic and racial diversity of the commonwealth's children, youth and families, and shall assure that each of the commonwealth's 6 human service regions, established by the executive office of health and human services, is represented by 1 of the appointments.

Each appointed member of the board shall serve for a term of 3 years. A vacancy in an unexpired term shall be filled in the same manner as an original appointment. Any member shall be eligible for reappointment.

The governor shall designate a chairman from among 1 of the appointed members of the board. The board may elect other officers and committees as it deems appropriate.

The board shall employ an executive director, assistant executive director, secretary, and any other staff the board deems necessary in order to carry out the duties and responsibilities assigned to the board. Expenditures for salaries and for other administrative functions shall be approved by the board within the limitations prescribed by section 50 of chapter 10.

The executive director shall have at least 2 years of direct service experience in child welfare or child clinical work and 2 years of experience in human service administration or policy making and shall have a master's degree in a related field.

The executive director shall be selected from applicants who have been screened and recommended by a 5-member subcommittee of the board, consisting of the chairman, the commissioner of children and families, the commissioner of early education and care, and 2 appointed members, and shall require approval by majority vote of the entire board and approval by the governor. The executive director shall be accountable to the board at large.

Any member of the board or its executive director may be removed by the governor for willful misconduct or neglect of duty, for inability to perform the powers and duties of the board, or for improprieties under law.

Notwithstanding any general or special law to the contrary, the office of children, youth and family services within the executive office of health and human services shall facilitate the implementation of this section and section 203 and of the Children's Trust Fund, established by section 50 of chapter 10, but the office shall not exercise any supervision or control of the board.

SECTION 9. The second paragraph of section 203 of said chapter 6, as so appearing, is hereby amended by striking out clause (10) and inserting in place thereof the following clause:—

(10) to serve as an advocate, subject to appropriation, and provide an articulate focus for the needs of children and disseminate information to the public regarding children's services and to work in collaboration with the secretary of child welfare and board on child abuse and neglect, the department of early education and care, the department of public health, the department of children and families, the department of education and any other state agency which serves the needs of children to promote the development of programs and services for all children, emphasizing programs for children with special needs.

SECTION 10. Section 16 of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 11. Section 17 of chapter 11 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 16, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 12. Section 20D of chapter 12 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The executive director shall annually report the status of child abuse and neglect cases that have been referred for criminal prosecution, including how many are prosecuted, the results of those prosecutions, and the rationale for decisions not to prosecute. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the committee on the judiciary, the speaker of the house, the president of the senate and the governor.

SECTION 13. Section 32 of said chapter 12, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 14. Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in line 54, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 15. Section 54 of said chapter 15, as so appearing, is hereby amended by striking out, in line 73, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 16. Section 19 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in lines 48 and 50, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 17. Section 14 of chapter 17 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 18. Section 28 of chapter 18 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 19. Section 1 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 20. Said chapter 18B is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:—

Section 2. The department shall provide and administer a comprehensive child welfare program for children and families, including the following services:-

- (1) casework or counseling including services to families, foster families or individuals;
- (2) protective services for children, unmarried mothers, the aging and other adults;

- (3) legal services for families, children or individuals who are clients of the department;
- (4) foster family care and specialized foster family care for children, the aging, the disabled and the handicapped;
- (5) adoption services;
- (6) homemaker services;
- (7) day care facilities and services for children, the aging, the disabled and the handicapped;
- (8) residential care for children with special needs or aging persons not suited to foster family care, or specialized foster family care;
- (9) informal education and group activities as needed for families, children, the aging, the disabled and the handicapped;
- (10) training in parenthood and home management for parents, foster parents and prospective parents;
- (11) services for newcomers to an area or community to assist in adjustment to a new environment and new resources;
- (12) camping services;
- (13) family services intended to prevent the need for foster care and services to children in foster care;
- (14) temporary residential programs providing counseling and supportive assistance for women in transition and their children who because of domestic violence, homelessness, or other situations require temporary shelter and assistance;
- (15) information and referral services; and
- (16) services for families and individuals in emergency and transitional housing.

SECTION 21. Said chapter 18B is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:—

Section 3. (a) The department shall provide comprehensive, area-based child welfare services. These services shall be organized by regions and areas consistent with those established by the secretary of health and human services as provided in section 16 of chapter 6A.

(b) In order that the area-based services be adapted, organized and coordinated to meet the needs of certain population groups, the department shall provide programs for:-

(1) families, children and unmarried parents, which program shall, among other objectives, serve to assist, strengthen and encourage family life for the protection and care of children, assist and encourage the use by any family of all available resources to this end, and provide substitute care of children only when preventive services have failed and the family itself or the resources needed and provided to the family are unable to insure the integrity of the family and the necessary care and protection to guarantee the rights of any child to sound health and normal physical, mental, spiritual and moral development.

(2) the aging and other adults in need of social, legal, health, rehabilitation, employment, or other services.

(3) other population groups which require special adaptation of the services provided because of special needs.

(c) The department shall:-

(1) formulate the policies, procedures and rules necessary for the full and efficient implementation of programs authorized by the laws of the commonwealth and federal laws in the area of services for children and families;

(2) administer the services, funds and personnel necessary for these programs throughout the commonwealth;

(3) establish and enforce high standards of service and strive to elevate such standards;

(4) provide the range of services on a fair, just and equitable basis to all people in need of such services;

(5) collaborate with other departments of the commonwealth and with voluntary or private agencies or organizations to assure efficient and high-quality social and educational services for persons who are unable for social or economic reasons to provide such services for themselves;

(6) study the social and economic problems in the commonwealth, and make recommendations to the appropriate branches and agencies of government, including the secretary of child welfare established by section 2 of chapter 18C, for broadening and improving the scope and quality of child welfare services.

SECTION 22. Section 6 of said chapter 18B, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 23. Said section 6 of said chapter 18B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:— The position of commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30 and said commissioner shall devote full time to the duties of the office.

SECTION 24. Section 6A of said chapter 18B, as so appearing, is hereby amended by striking out, in line 1, the words “of social services”.

SECTION 25. Said section 6A of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 42, the words “thirty A” and inserting in place thereof the following word:— 30A.

SECTION 26. Said chapter 18B is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:—

Section 7. (a) The commissioner shall establish reasonable caseload rates and shall report these caseload rates to the general court in the budget estimates of the department.

(b) The commissioner shall develop and implement a management information system that shall contain fiscal and personnel data, client data, and program data necessary for the ongoing administration or effective service delivery. The information system shall include, but not be limited to, a service plan for each client, with provisions for periodic review thereof. The commissioner shall promulgate such rules and regulations as are deemed necessary to ensure the confidentiality of client data collected by the department.

(c) The commissioner shall develop and implement a comprehensive monitoring and evaluation system for all services under the control of the department and shall collect the necessary program and fiscal data annually.

(d) The commissioner shall conduct an annual needs assessment for all services under the control of the department.

(e) The commissioner shall report annually to the general court on all services, including program and client data and unit costs, and shall report semi-annually on high-risk children, racial disproportionality and disparity, and service procurement pursuant to section 23.

(f) The commissioner shall develop and implement a plan for the orientation and training of area-based and other staff.

(g) The commissioner shall coordinate the overall service planning of the department with planning under Title XX of the Social Security Act, 42 U.S.C. §1397 et seq.

(h) The commissioner shall be authorized to apply for and accept on behalf of the commonwealth federal, local or private grants, bequests, gifts or contributions.

(i) The commissioner, subject to chapter 30A, shall promulgate such rules and regulations necessary to carry out this chapter and may amend or repeal the same.

(j) The commissioner shall include in the budget estimates of the department funds for the development and implementation of the aforementioned management information system, monitoring and evaluation system, annual needs assessment, and staff training plan.

(k) The commissioner shall, subject to appropriation, enter into contracts with nonprofit organizations to provide services for families and individuals in emergency and transitional housing; provided, that the department, in entering into such contracts, shall provide 3 dollars for each dollar of donated funds which have been committed to such nonprofit organizations from any nonstate source. For the purposes of this subsection, a nonstate source may include private donations or monies from city, town or county governments but shall not include funds from other state agencies.

(l) Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter 118E, including, but not limited to, identifying individuals eligible for such assistance under said chapter, the commissioner shall assure that such activity or policy is reviewed by the director of Medicaid.

Not more than 3 per cent of the department's annual budget shall be appropriated in a separate account and expended for the purposes set out in subsections (b), (c), and (d), of this section.

SECTION 27. Section 8 of said chapter 18B, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— The position of deputy commissioner shall be classified under section 45 of chapter 30 and the salary shall be determined under section 46C of said chapter 30.

SECTION 28. The second paragraph of section 9 of said chapter 18B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:— The position of assistant commissioner shall be classified under section 45 of chapter

30 and the salary shall be determined under section 46C of said chapter 30. Assistant commissioners shall devote full time to the duties of the office.

SECTION 29. Section 12 of said chapter 18B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

The commissioner, with the advice of the area board, shall appoint an area director in each area, and, subject to appropriation, such other employees as the commissioner may deem necessary.

SECTION 30. Said section 12 of said chapter 18B, as so appearing, is hereby amended by striking out the fifth and sixth paragraphs and inserting in place thereof the following 3 paragraphs:—

The area director shall also prepare and submit to the commissioner the proposed annual budget for the area for programs to be supported at the area level. The commissioner shall make such revisions as shall be necessary and shall include said area budgets as part of the departmental budget requests submitted annually under sections 27 and 28 of chapter 29. A copy of the area budget as included with said departmental requests shall be forwarded by the commissioner to each area director for the information of the area board.

The area director, subject to the overall supervision of the commissioner, shall supervise all employees within the area and shall be responsible for the administration of the area budget and the implementation of the area plan.

All social workers shall have bachelors' degree at the time of appointment. All supervisory social workers shall have masters' degree in social work or a related field at the time of appointment.

SECTION 31. Said chapter 18B is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:—

Section 13. In each area established under section 3, there shall be a children and families area board, in this chapter called the area board, which shall be an agency of the commonwealth and shall serve in the department. The area board shall consist of 21 members, who shall be appointed by the commissioner for terms of 3 years. Two-thirds of the members shall live within the area for which they are appointed, and the remaining members shall either live or work in the area. At least 6 members shall be consumers of services provided by the department. Not more than 2 members shall be selected from private providers within the area. One member at the time of appointment shall be a member of the community mental health area board established under section 14 of chapter 19, 1 member at the time of appointment shall be a person knowledgeable in the field of mental retardation, 2 members at the time of their appointment shall be members of the local councils for children established under section 7 of chapter 28A, 2 members at the time of their appointment shall be members of the financial or business professions with special fiscal or budgetary skills, and 2 members shall at the time of their appointment be members of the community service area boards established under section 7 of chapter 18.

The commissioner shall include at least 1 member from each city and if practicable each town in the area, and shall seek to provide proper geographical representation in the membership of the board. Two-thirds of such members shall be persons other than employees of the commonwealth or its political subdivisions. No member shall be an employee of the department.

Upon the expiration of the term of any member, his successor shall be appointed, in like manner, for a term of 3 years. In the event of a vacancy, the commissioner may, in like manner, appoint a member who shall serve for the remainder of the unexpired term. Members shall serve without compensation, and shall be sworn to the faithful performance of their duties. The area board shall suggest for consideration by the commissioner 1 or more names for each such expiring term or vacancy. No member shall be appointed for more than 3 consecutive 3-year terms.

SECTION 32. Section 14 of said chapter 18B, as so appearing, is hereby amended by striking out, in lines 7, 10 and 15, the word “thirteen” and inserting in place thereof, in each instance, the following figure:— 13.

SECTION 33. Section 15 of said chapter 18B, as so appearing, is hereby amended by inserting after the word “services”, in lines 5 and 13, the following words:— for children and families.

SECTION 34. Section 16 of said chapter 18B, as so appearing, is hereby amended by inserting after the word “services”, in line 5, the following words:— for children and families.

SECTION 35. Said chapter 18B is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:—

Section 17. The department may establish child welfare centers in any facility owned or rented by the commonwealth other than state schools, hospitals or prisons, in any area if space is available or suitable for the purpose and shall, if feasible, locate such centers in a facility utilized by an agency of the commonwealth providing human services. If suitable space is not available the department may acquire adequate space for such centers by renting, leasing or other available means. Each area shall be responsible for the delivery of services within its area. The centers shall be of sufficient number and so located as to be readily accessible to the people throughout the commonwealth.

SECTION 36. Said chapter 18B is hereby amended by striking out section 20, as so appearing, and inserting in place thereof the following section:—

Section 20. Notwithstanding section 22 of chapter 29 or any other law, funds made available by appropriation or otherwise for enabling the department to carry out the provisions of this chapter may be advanced to the department in such sums and subject to such rules and

regulations as the comptroller may determine. The department shall make a monthly report to the comptroller of the amount of funds disbursed by the department subsequent to the previous monthly report and shall certify to the comptroller that such disbursements are substantiated by detailed records and vouchers retained in the custody of the department.

SECTION 37. Section 22 of said chapter 18B, as so appearing, is hereby amended by striking out, in lines 11 and 12 and in lines 41 and 46, the words “public welfare” and inserting in place thereof, in each instance, the following words:— transitional assistance.

SECTION 38. Said chapter 18B is hereby amended by adding the following section:—

Section 23. The commissioner shall report semi-annually on the status of high-risk children and its efforts to identify such children and address their needs for child protection. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

The commissioner shall report semi-annually on the status of racial disproportionality and disparity of its client population and its efforts, including the use of culturally competent staffing, resources and practices, to reduce overrepresentation of children of color in the child welfare system. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

The commissioner shall report semi-annually on the status of its procurement of services, including so-called Family Networks and lead agencies. At a minimum, the report shall address accountability, and the cost, quantity and quality of services provided. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means,

the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

SECTION 39. The General Laws are hereby amended by inserting after chapter 18B the following chapter:—

CHAPTER 18C

CHILD WELFARE AND PROTECTION

Section 1. As used in this chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:—

“Board”, the board on child abuse and neglect, established by section 3.

“Department”, the department of children and families, established by chapter 18B.

“Secretary”, the secretary of child welfare, established by section 2.

Section 2. A secretary of child welfare shall be appointed by and serve at the pleasure of the governor.

Section 3. There shall be a 19-member board on child abuse and neglect that shall advise the secretary of child welfare.

The board shall consist of the secretary of child welfare, who shall serve as chair of the board, the executive director of the criminal history systems board, the undersecretary of criminal justice from the executive office of public safety, the commissioner of early education and care, the commissioner of education, the commissioner of mental health, the commissioner of mental retardation, the commissioner of public health, the commissioner of children and families, the commissioner of transitional assistance, the commissioner of youth services, the deputy commissioner of the child support enforcement division within the department of revenue, the president of the Massachusetts district attorneys association, the commissioner of probation, the

chief justice of the juvenile court department, the chief justice of the probate and family court department, the executive director of the child abuse prevention board, and 2 persons appointed by the governor.

Section 4. The secretary, in consultation with the board, shall assess the commonwealth's long-term, system-wide needs for the prevention, detection and prosecution of child abuse and neglect and shall coordinate and integrate responses across state agencies. The secretary shall identify existing and potential resources, structural strengths and weaknesses, overlapping or conflicting efforts, and opportunities for coordinated responses to child welfare issues. The secretary shall facilitate information sharing and policy synchronization among federal, state and local entities.

Section 5. The secretary, in consultation with the board, shall formulate a comprehensive plan, with periodic benchmarks and cost estimates, for a coordinated, system-wide response to child abuse and neglect, including related mental health, substance abuse and domestic violence issues. The comprehensive plan shall look forward 5 years or more, shall be updated annually to plan for the ensuing 5-year period, shall assess previous efforts and, if appropriate, shall include legislative recommendations, such as changes to the parameters of the comprehensive plan.

The plan shall be filed annually with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

The plan shall examine the status of and address the following issues:—

(1) Racial disproportionality and disparity of the client population of the department of children and families, including the effectiveness of reforms designed to address overrepresentation of children of color within the department's client population;

(2) Mandated reporting, including (i) the quality and quantity of training provided to mandated reporters, (ii) standards for training based on best practices for recognizing and reporting suspected child abuse and neglect, (iii) the use of existing programs of professional training such as

continuing education programs or in-service training, online programs, and training offered by state agencies, and (iv) the value of mandatory testing of mandated reporters;

(3) Screening of child abuse and neglect reports, including (i) the efficiencies of centralizing the reporting and screening processes, (ii) the use of a single, 24-hour, toll-free telephone number for all oral reports of child abuse or neglect, the use of a single fax number or mailing address for all written reports of child abuse or neglect, the use of Internet-based filing of reports of child abuse or neglect, (iii) the examination of multiple reports filed about a particular child or a particular family, (iv) the examination of reports that are screened out to determine when and under what conditions they may have been inappropriately screened out and the impact of such inappropriate screen outs, and (v) the use of direct, electronic access to the National Crime Information Center for criminal history records and warrants;

(4) Child protection teams, which are multidisciplinary teams that provide specialized medical examinations of children who present signs of abuse or neglect and that include pediatricians or pediatric nurses and psychologists or social workers who have been trained to recognize child abuse and neglect, including statewide expansion of these teams at regional hospitals, at all hospitals with emergency rooms, and at all pediatric care hospitals;

(5) Family engagement model, including coordination with the department of children and families for (i) the evaluation of the model and its use of differential response and risk assessment tools to determine how effectively findings of abuse or neglect are made, (ii) an estimation of the cost to implement the model statewide, (iii) an examination of the combination of departmental functions such that an individual social worker investigates, assesses and provides ongoing case management, particularly as that combination impacts incidents requiring specialized investigatory skills, (iv) an examination of delays in the fair hearing process, and (v) periodic examination of time limits allowed for screenings, investigations and assessments;

(6) Caseloads and teaming, including coordination with the department of children and families for (i) an examination of the effects of teaming on caseloads and of caseloads on teaming,

(ii) an estimation of the cost of statewide adoption of various standard caseload ratios, (iii) the development of a potential multi-year plan to reduce caseloads, and (iv) an examination of duties handled by social workers that may be more affordably and efficiently handled by other staff;

(7) Law enforcement involvement, including the coordination with the department of children and families and law enforcement for (i) an investigation of how effectively the department and law enforcement collaborate, and where there is room for improvement or coordination of resources, (ii) the development of protocols for mandatory reporting of physical abuse to local law enforcement and district attorneys and (iii) the potential alignment with efforts to prevent or prosecute domestic violence and with the procedures used in the investigation of sexual abuse, such as the sexual abuse intervention network and the sexual assault nurse examiners program;

(8) Schools of social work, including (i) an examination of how effectively social work and related degree programs teach child welfare practice, (ii) an examination of opportunities for greater cooperation between the department of children and families and higher education to study child welfare issues, (iii) a determination of the capacity of public and private schools to meet increased demand for social work and related degrees, including concentrations in child welfare, and (iv) the establishment of a timeline for inclusion of child welfare concentrations in bachelors' and masters' degree programs at public institutions of higher education;

(9) Social worker qualifications, including an examination of the infrastructure needed to support a more qualified workforce, such as full implementation of proposed programs at the child welfare institute and the transferability of certificate coursework to other graduate programs;

(10) Confidentiality, including research of legal and ethical considerations to be addressed if information sharing in cases of child abuse and neglect is expanded;

(11) Health service needs of the client population and health consultation needs of the staff of the department of children and families, including (i) an examination of the ongoing need for physical and behavioral health services and consultation, including those related to mental

health and substance abuse treatment, (ii) improved coordination and consultation by the department of children and families, the department of mental health and the department of public health, (iii) a critique of proposed best-practice models for more effective client behavioral health services and (iv) improved oversight and peer review of the safety and effectiveness of the use of psychotropic drugs by children involved with the department of children and families or the department of youth services;

(12) Critiques of the department of children and families, including (i) the potential alignment of a internal or external audit unit with the department's continuous quality improvement and quality service review initiatives and (ii) dissemination of the findings of these critiques to policy makers within and outside of the department;

(13) Criminal offender record information reviews, including an examination of the use of these reviews in out-of-home, kinship or foster, placements and a determination of areas for improved efficiency and equality;

(14) Aging-out, including the monitoring of how effectively the department of children and families assists adolescents who, due to their age, are transitioning out of the child welfare system with health care, housing, higher education and other needs;

(15) The court-approved remedial plan in the case of *Rosie D. v. Romney, et al.*, 410 F.Supp.2d 18 (NO. CIV.A.01-30199-MAP), including an examination of the impact on child welfare efforts of the implementation of the remedial plan regarding the early and periodic screening, diagnostic, and treatment services provision and reasonable promptness provision of the federal Medicaid law, 42 U.S.C. §§ 1396a;

(16) MassHealth and the Massachusetts Behavioral Health Partnership, including monitoring of the agencies' oversight of medical and behavioral health expenditures on behalf of the client population of the department of children and families; and

(17) Federal funding, including the development of a plan to address the commonwealth's low Title IV-E saturation rate for foster children, such as the determination of

AFDC status for the non-TANF population and expedited judicial determinations made within the required time frames.

SECTION 40. Paragraph (a) of section 16 of chapter 19A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— In planning this system, the department shall require input from other protective service agencies and other agencies currently involved in the provision of social, health, legal, nutritional, and other services to the elderly, as well as elderly advocacy organizations.

SECTION 41. Section 7 of chapter 22A of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 42. Section 68 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Such special state police officers shall serve for 1 year, subject to removal by the colonel, and they shall have and exercise throughout the commonwealth the same powers as state police officers to serve warrants and other criminal processes for any criminal offense resulting from either a fraudulent claim for payment or service under any assistance program administered by the department of transitional assistance or any program administered by the department of children and families or a receipt of payment or services by a person entitled thereto or for any violation of chapter 273 relative to the support of spouses and children for whom the department of transitional assistance is entitled to receive payment, or in whose behalf said department is giving aid; except, that said officers shall not have the authority to arrest without a warrant.

SECTION 43. Section 10 of chapter 28A of the General Laws, as so appearing, is hereby amended by striking out, in line 49, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 44. Said section 10 of said chapter 28A, as so appearing, is hereby further amended by striking out paragraph (f) and inserting in place thereof the following paragraph:—

(f) The office shall promptly investigate and evaluate any notice transmitted to the office by the department of children and families under subsection (i) of section 51B of chapter 119. Such investigation and evaluation shall determine whether the facility being operated by a person subject to licensure under this section is being operated in compliance with this chapter and with the rules and regulations established under paragraph (c). If, during the course of any such investigation or licensing study conducted by the office, any agent or employee of the office receives or discovers information concerning the occurrence of child abuse or neglect, such agent or that employee shall make a report to the department of children and families, under section 51A of said chapter 119.

SECTION 45. Section 9B of said chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 46. Section 48 of said chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in line 93, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 47. Section 2A of chapter 38 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 14, 44 and 139, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 48. Section 3 of said chapter 38, as so appearing, is hereby amended by striking out, in line 43, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 49. Section 1A of chapter 46 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 50. Section 6 of said chapter 46, as so appearing, is hereby amended by striking out, in lines 4 and 6, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 51. Section 13 of said chapter 46, as so appearing, is hereby amended by striking out, in lines 193 and 194 and in line 200, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 52. Section 21 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out, in line 34, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 53. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in lines 64 and 65, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 54. Section 37L of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

The school committee of each city, town or regional school district shall inform teachers, administrators, and other professional staff of reporting requirements for child abuse and neglect under section 51A of chapter 119 and the reporting requirements for fires under section 2A of chapter 148.

SECTION 55. Said section 37L of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 12 and 15, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 56. Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in line 55, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 57. Section 2 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 58. Section 3 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 178, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 59. Section 5A of said chapter 71B, as so appearing, is hereby amended by striking out, in line 50, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 60. Section 10 of said chapter 71B, as so appearing, is hereby amended by striking out, in lines 37 and 45 , the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 61. Section 12B of said chapter 71B, as so appearing, is hereby amended by striking out, in line 12, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 62. Section 7 of chapter 74 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 63. Section 7A of said chapter 74, as so appearing, is hereby amended by striking out, in line 4, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 64. Section 8A of said chapter 74, as so appearing, is hereby amended by striking out, in lines 6 and 7 , the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 65. Section 15A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “social services, the office of child care services” and inserting in place thereof the following words:— children and families, the department of early education and care.

SECTION 66. Section 7 of chapter 76 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 15, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 67. Section 4J of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 to 19, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 68. Said chapter 111 is hereby amended by striking out section 24K, inserted by section 2 of chapter 356 of the Acts of 2006, and inserting in place thereof the following section:—

Section 24L: (a) The department of public health shall collaborate with the department of children and families, the child abuse prevention board and staff of the Children's Trust Fund, other state agencies serving families and children, health care providers, law enforcement personnel, human service providers, and child advocacy organizations to develop and implement a comprehensive, statewide shaken baby syndrome prevention initiative to reduce death and disability resulting from shaken baby syndrome. The initiative shall be subject to appropriation and shall include, but not be limited to:—

(1) the institution of a program to educate patients concerning shaken baby syndrome prevention, provided that parents or guardians of a newborn shall, by the time of discharge from a hospital or birth center, receive education and materials to be developed by the department of public health describing the dangers of shaking infants and children and the risks associated with shaken baby syndrome. Education and materials shall include, but not be limited to, information concerning the medical and physical effects of shaking infants and children, appropriate methods of handling infants and children, methods of preventing and reducing the risk of shaking infants and children, and the availability of community-based programs and other resources to prevent shaken baby syndrome;

(2) the institution of education and training programs concerning the prevention and diagnosis of shaken baby syndrome for parents, caregivers, health care providers, and other professionals who serve or have contact with children and families, and the department of public health shall develop necessary educational materials;

(3) the development of a program to support and serve victims and families affected by shaken baby syndrome; and

(4) the creation of a surveillance and data collection program to measure the incidence of shaken baby syndrome and traumatic brain injury in infants and children.

(b) No caregivers, health providers, or other professionals serving children and families who provide education or report information related to the department's surveillance process shall be liable in any civil or criminal action, if the actions were required by this section and made in good faith.

(c) The department of public health may adopt regulations to implement this section. The department shall consult with a statewide advisory group of interested parties before implementation of the initiative and the regulations adopted under this section. The department shall, in consultation with the department of children and families and the child abuse prevention board and staff of the Children's Trust Fund, conduct an annual evaluation of the shaken baby syndrome prevention initiative and shall report annually to the governor concerning the activities undertaken as part of the initiative and the results of the annual evaluation. A copy of the report shall be filed with the clerks of the house of representatives and the senate no later than February of each year.

SECTION 69. Section 220 of said chapter 111, as so appearing, is hereby amended by striking out, in line 23, the words “social services” and inserting in place thereof the following words:—
children and families.

SECTION 70. The first paragraph of section 13A of chapter 111E of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The division shall, in accordance with this section, accept for referral children determined to be in need of services under section 39G of chapter 119 and referred to the division by the department of children and families, hereinafter referred to as the department, or the juvenile court.

SECTION 71. Section 3 of chapter 111G of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “public welfare, the department of social services, and the office for children” and inserting in place thereof the following words:— transitional assistance, the department of children and families, and the department of early education and care.

SECTION 72. Section 4B of chapter 118 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 73. Section 22 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 74. Chapter 119 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:—

Section 1. It is hereby declared to be the policy of this commonwealth to direct its efforts, first, to the strengthening and encouragement of family life for the protection and care of children; to assist and encourage the use by any family of all available resources to this end; and to provide substitute care of children only when the family itself or the resources available to the family are

unable to provide the necessary care and protection to insure the rights of any child to sound health and normal physical, mental, spiritual and moral development.

The purpose of this chapter is to insure that the children of the commonwealth are protected against the harmful effects resulting from the absence, inability, inadequacy or destructive behavior of parents or parent substitutes, and to assure good substitute parental care in the event of the absence, temporary or permanent inability or unfitness of parents to provide care and protection for their children.

The health and safety of the child shall be of paramount concern and shall include the long-term well-being of the child.

In all matters and decisions by the department of children and families, the policy of the department, as applied to children in its care and protection or children who receive its services, shall be to define best interests of the child as that which shall include, but not be limited to, considerations of precipitating factors and previous conditions leading to any decisions made in proceedings related to the past, current and future status of the child, the current state of the factors and conditions together with an assessment of the likelihood of their amelioration or elimination; the child's fitness, readiness, abilities and developmental levels; the particulars of the service plan designed to meet the needs of the child within his current placement whether with the child's family or in a substitute care placement and whether such service plan is used by the department or presented to the courts with written documentation; and the effectiveness, suitability and adequacy of the services provided and of placement decisions, including the progress of the child or children therein. The department's considerations of appropriate services and placement decisions shall be made in a timely manner in order to facilitate permanency planning for the child.

In all department proceedings that affect the child's past, current and future placements and status, when determining the best interests of the child, there shall be a presumption of competency that a child who has attained the age of 12 is able to offer statements on his own behalf and shall be provided with timely opportunities and access to offer such statements, which shall be considered

by the department if the child is capable and willing. In all matters relative to the care and protection of a child, the ability, fitness and capacity of the child shall be considered in all department proceedings.

For purposes of this section, the words “all department proceedings” shall include departmental hearings and proceedings but shall not include a court proceeding even when the department is a party.

SECTION 75. Said chapter 119 is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:—

Section 21. As used in sections 21 to 55H, inclusive, the following words shall have the following meanings, unless the context clearly otherwise requires:—

“51A report”, a report filed pursuant to section 51A that details suspected child abuse or neglect.

“Commissioner”, the commissioner of children and families.

“Department”, the department of children and families.

“Child in need of services”, a child below the age of 17 who persistently runs away from the home of his parents or legal guardian, or persistently refuses to obey the lawful and reasonable commands of his parents or legal guardian, thereby resulting in said parent's or guardian's inability to adequately care for and protect said child, or a child between the ages of six and sixteen who persistently and wilfully fails to attend school or persistently violates the lawful and reasonable regulations of his school.

“Custody”, shall include the powers to: (1) to determine the child's place of abode, medical care and education; (2) to control visits to the child; and (3) to consent to enlistments, marriages and other contracts otherwise requiring parental consent. If the parent or guardian objects to the carrying out of any power conferred by this paragraph, that parent or guardian may take application to the committing court and the court shall review and make an order on the matter.

“Evidence”, shall be admissible according to the rules of the common law and the General Laws and may include reports to the court by any person who has made an investigation of the facts relating to the welfare of the child and is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children. Such person may file with the court in a proceeding under said sections a report in full of all the facts obtained as a result of such investigation. The person reporting may be called as a witness by any party for examination as to the statements made in the report. Such examination shall be conducted as though it were on cross-examination. Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been in the care of the foster or pre-adoptive parents for six months or more, and may include the testimony of the child if the court determines that the child is competent and willing, after consultation with counsel, if any, to testify.

“Mandated reporter”, a person who is a (i) physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional as licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist, clinical social worker; (ii) who is a public or private school teacher, educational administrator, guidance or family counselor, day care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 28A that provides day care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family day care systems or child care food programs, licenser of the department of early education and care, school attendance officer; (iii) probation officer, clerk-magistrate of the district courts, parole officer, social worker, foster parent, firefighter, policeman, (iv) priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a

church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis or (v) person in charge of a medical or other public or private institution, school or facility or his designated agent.

“Parent”, means mother or father, unless specified parent as defined under section 1 of chapter 118.

SECTION 76. Said chapter 119 is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:—

Section 22. An agent of the department shall visit each family foster home, not supervised and approved by a licensed placement agency, at least once a year and may be authorized by the department to remove a child to its care if in its judgment the welfare of the child or its protection from neglect or abuse so require. An agent who is refused entry or hindered in the removal of such child may make complaint, on oath, to a justice of the court having jurisdiction; who may thereupon issue a warrant authorizing the agent to obtain sufficient aid and, at any reasonable time, enter the building designated, and any part thereof, to investigate the treatment and condition of a child found there and to remove the child as herein provided. The department shall take the child temporarily into its care, immediately notify the child's parent or legal guardian and, upon request, discharge the child to its parent or legal guardian. If the parent or legal guardian is unable or refuses to make suitable provisions for the child, the department shall make lawful provisions for the child's care under section 23 or 24.

SECTION 77. Said chapter 119 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:—

Section 23. (a) The department shall develop guidelines and standards for the placement of children under 18 years of age in foster care. The guidelines and standards shall be reviewed by the executive office of health and human services.

(b) The department shall have the responsibility, including financial responsibility, for providing foster care for children through its own resources or by use of appropriate voluntary agencies, according to the rules and regulations of the department, in the following instances:—

(1) If a child, a parent, a guardian, or any person acting on behalf of a child applies for foster care, the department may accept the child who in its judgment is in need of foster care. Such acceptance shall entail no abrogation of parental rights or responsibilities, but the department may accept from parents a temporary delegation of certain rights and responsibilities necessary to provide the foster care for a period of time under conditions agreed upon by both and terminable by either. If the department determines that continued placement beyond 6 months is required for reasons unrelated to parental unfitness and the parent consents to continued placement, the department may file a petition for care and responsibility in the probate court on behalf of a child accepted into foster care. At the initial hearing on the petition, the court shall determine whether continued placement with the department is in the child's best interests and shall issue its determination, including the rationale therefor, in written form. The allowance of the petition shall not abrogate a parent's right to make decisions on behalf of the child, but the department may accept from the parent a temporary delegation of certain rights and responsibilities necessary to continue to provide foster care for the child under conditions agreed upon by both and terminable by either. Notwithstanding any general or special law to the contrary, a permanency hearing shall be held within 60 days of the transfer of responsibility by order of the probate court or within 12 months of initial placement into foster care with the department, whichever date is later. The hearing shall be conducted as provided in section 29B.

(2) If parents apply for voluntary surrender of custody of their children under 18 years of age for purposes of giving consent to adoption, the department may accept the children under the same conditions as in clause (1).

(3) If a child under 18 years of age is without proper guardianship due to death, unavailability, incapacity or unfitness of the parent or guardian or on the consent of the parent or parents, the department may seek a probate court order to accept responsibility for the child. Such responsibility shall include the right to: (i) determine the child's abode, medical care and education; (ii) control visits to the child; (iii) consent to enlistments, marriages and other contracts requiring parental consent, and (iv) consent to adoption only when it is expressly included in the order of the court. In making an order, the probate court shall consider the section 29C and shall make the written certification and determinations required by said section 29C. If a child is in the care of the department of mental health or the department of mental retardation, the responsibility enumerated above and all rights therein contained shall continue in the department. If a mentally retarded person who has been declared mentally incompetent was the responsibility of the department prior to reaching the age of 18, the department shall continue to be responsible until the person is declared to be no longer legally incompetent.

(4) The department shall accept on commitment from the juvenile court any child under 18 years of age declared in need of foster care under section 26 or declared to be a child in need of services under section 39G.

(5) Any child under 18 years who is left in any place and who is seemingly without a parent or legal guardian available shall be immediately reported to the department, which shall proceed to arrange care for such child temporarily and shall forthwith cause search to be made for parent or guardian. If parent or guardian cannot be found or is unable or refuses to make suitable provisions for the child, the department shall make such lawful provision as seems for the best interest of such child under this chapter.

(6) If the department has in its care a child whose parent or parents have consented to his adoption and the department has been unable to place such child in an adoptive home within 60 days of the receipt of this consent, it shall so notify all children's foster care agencies in the commonwealth licensed to place children for adoption. The notice shall request that each such agency attempt to find an adoptive home for such child. If 1 of the agencies locates an adoptive home for this child, the department shall cooperate with the agency in the placement of the child in this home and in the supervision of the placement during the 1 year waiting period. Any person in whose home a child has been placed by the department shall also be informed by the department if the child has become eligible for adoption, and this person may request consideration as a prospective adoptive parent.

(7) A temporary shelter care facility program or a group care facility, licensed under chapter 28A, may provide temporary shelter for a 72-hour period to a child under 18 without parental consent; provided that the child's welfare would be endangered if such shelter were not immediately provided. At the expiration of the 72-hour period, the licensee shall (i) secure the consent of parent or guardian to continued custody and care, (ii) refer the child to the department for custody and care, or (iii) refuse to provide continued care and custody to the child.

(c) The department may pay a sum not exceeding \$1,100 for the funeral and burial of a child in its care; provided that the cost of funeral and burial does not exceed \$1,500 and there are insufficient resources to pay for the cost of the funeral and burial. Any resources of the child shall be deducted from the maximum cost of the funeral and burial allowable hereunder and the difference, subject to the limitation set forth in this paragraph, shall be paid by the department.

(d) If a child is placed in or transferred to a foster home, a completed child profile form shall precede or accompany the child to the foster home.

In the case of an emergency placement, the department, the department of youth services, the department of mental health, other departments of the commonwealth responsible for the placement of foster children, or placement agency shall immediately provide a brief verbal or

written statement describing the child's outstanding problem behaviors and mental and emotional problems and shall provide the child profile form within 10 days to the foster parents.

The department shall develop a child profile form to be used by all other departments of the commonwealth or placement agencies that shall contain the child profile and any other relevant information necessary to the care, well-being, protection, and parenting of the child by the foster parents, including, but not be limited to: (i) a history of the child's previous placements and reasons for placement changes, (ii) a history of the child's problem behaviors and mental and emotional problems, (iii) educational status and school related problem behaviors, and (iv) any other psychological, educational, medical, and health information necessary.

The child profile form shall immediately be prepared by the department of the commonwealth which is granted care and custody of the child at the time such care and custody is granted.

(e) The department may continue to have the responsibility for any person provided for in this section under 21 years for the purposes of specific educational or rehabilitative programs, under conditions agreed upon by both the department and the person and terminable by either.

(f) The department shall obtain and provide to the IV-D agency, as set forth in chapter 119A, an assignment of support rights on behalf of each child receiving foster care maintenance payments under Title IV, Part E, of the Social Security Act. The department shall be subrogated to the rights of each such child and shall obtain and provide to the IV-D agency information that may be reasonably necessary to enforce the department's right, including, but not limited to the following information: the child's name, date of birth, place of birth, Social Security number, address and benefit level and, if known, each parent's name, date of birth, place of birth, Social Security number, most recent address and most recent employer. The department shall immediately notify the IV-D agency when a child whose rights to support are subrogated no longer receives foster care maintenance payments pursuant to said Title IV, Part E, of the Social Security Act.

SECTION 78. Said chapter 119 is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:—

Section 24. A person may petition under oath the juvenile court alleging on behalf of a child under the age of 18 within its jurisdiction that the child: (a) is without necessary and proper physical or educational care and discipline; (b) is growing up under conditions or circumstances damaging to the child's sound character development; (c) lacks proper attention of the parent, guardian with care and custody or custodian; or (d) has a parent, guardian or custodian who is unwilling, incompetent or unavailable to provide any such care, discipline or attention.

The court may issue a precept to bring the child before the court, and shall issue a notice to the department and summonses to both parents of the child to show cause why the child should not be committed to the custody of the department or why any other appropriate order should not be made. The summonses shall include notice that the court may dispense with the right of the parents to notice of or consent to the adoption, custody or guardianship or any other disposition of the child named therein if it finds that the child is in need of care and protection and that the best interests of the child would be served by any such disposition. Notice shall be by personal service upon the parent. If the identity or whereabouts of a parent is unknown, the petitioner shall cause notice in a form prescribed by the court to be served upon such parent by publication once in each of 3 successive weeks in any newspaper as the court may order. If no parent can be found after reasonable search, a summons shall be issued to the child's legal guardian, if any, known to reside within the commonwealth and, if none, to the person with whom such child last resided, if known. If the court is satisfied after the petitioner testifies under oath that there is reasonable cause to believe that (i) the child is suffering from serious abuse or neglect or is in immediate danger of serious abuse or neglect and (ii) that immediate removal of the child is necessary to protect the child from serious abuse or neglect, the court may issue an emergency order transferring custody of the child for up to 72 hours to the department or to a licensed child care agency or individual described in clause (2) of the second paragraph of section 26. Upon entry of the order, notice to

appear before the court shall be given to either parents, both parents, a guardian with care and custody or another custodian. At that time, the court shall determine whether temporary custody shall continue beyond 72 hours until a hearing on the merits of the petition for care and protection is concluded before the court. The court shall also consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

Upon the issuance of the precept and order of notice, the court shall appoint a person qualified under section 21 to investigate the conditions affecting the child and to make a report under oath to the court, which shall be attached to the petition and be a part of the record.

If the child is alleged to be abandoned, as defined in section 3 of chapter 210, hearings on the petition under section 26 shall be expedited.

If the parents or guardians consent, a child may be committed to the department under this section without a hearing or notice.

SECTION 79. Said chapter 119 is hereby further amended by striking out section 25, as so appearing, and inserting in place thereof the following section:—

Section 25. The petition under section 24 may be heard on the merits when a child is taken into custody and brought before the court or may be continued to a time fixed for hearing. Pending the hearing on the merits, the court may allow the child to be placed in the care of some suitable person or licensed agency providing foster care for children or may commit the child to the custody of the department.

If the court commits a child to the custody of the department, the court shall consider the provisions of section 29C and shall make the written certification and determinations required by said section 29C.

SECTION 80. Said chapter 119 is hereby further amended by striking out section 26, as so appearing, and inserting in place thereof the following section:—

Section 26. (a) If the child is identified by the court and it appears that the precept and summonses have been duly and legally served, that said notice has been issued to the department and said report is received, the court may excuse the child from the hearing and shall proceed to hear the evidence.

(b) If the court finds the allegations in the petition proved within the meaning of this chapter, it may adjudge that the child is in need of care and protection. In making such adjudication, the health and safety of the child shall be of paramount concern. If the child is adjudged to be in need of care and protection, the court may commit the child to the custody of the department until he becomes 18 years of age or until, in the opinion of the department, the object of his commitment has been accomplished, whichever occurs first. The court also may make any other appropriate order, including conditions and limitations, about the care and custody of the child as may be in his best interest, including, but not limited to, any 1 or more of the following:—

(1) It may permit the child to remain with his parents, guardian, or other custodian, including supervision as directed by the court for the care and protection of the child.

(2) It may transfer temporary legal custody to:—

(i) any individual who, after study by a probation officer or other person or agency designated by the court, is found by the court to be qualified to give care to the child;

(ii) any agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child; or

(iii) the department of children and families.

(3) It may order appropriate physical care including medical or dental care.

(4) It may dispense with the need for consent of any person named in section 2 of chapter 210 to the adoption, custody, guardianship or other disposition of the child named therein.

In determining whether such an order should be made, the standards set forth in section 3 of said chapter 210 concerning an order to dispense with the need for consent to adoption of a child shall be applied. If the child who is the subject of the petition is under the age of 12, and if the

court adjudicates the child to be in need of care and protection under this section, the court shall enter an order dispensing with the need for consent to adoption upon finding that the best interests of the child, as defined in paragraph (c) of said section 3 of said chapter 210, will be served thereby. The entry of such an order shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein.

The department shall file a petition or a motion to amend a petition to dispense with parental consent to adoption, custody, guardianship or other disposition of the child if: (i) the child has been abandoned; (ii) the parent has been convicted by a court of competent jurisdiction of the murder or voluntary manslaughter of another child of such parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter or of an assault constituting a felony which resulted in serious bodily injury to the child or to another child of such parent; or (iii) the child has been in foster care in the custody of the state for 15 of the immediately preceding 22 months. Under this paragraph, a child shall be considered to have entered foster care on the earlier of: (a) the date of the first judicial finding, pursuant to section 24 or this section, that the child has been subjected to abuse or neglect; or (b) the date that is 60 days after the date on which the child is removed from the home. Under this section, "serious bodily injury" shall mean bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty. The department shall concurrently identify, recruit, process, and approve a qualified family for adoption.

The department need not file such a motion or petition to dispense with parental consent to the adoption, custody, guardianship or other disposition of the child if the child is being cared for by a relative or the department has documented in the case plan a compelling reason for determining that such a petition would not be in the best interests of the child or that the family of the child has not been provided, consistent with the time period in the case plan, such services as

the department deems necessary for the safe return of the child to the child's home if reasonable efforts as set forth in section 29C are required to be made with respect to the child.

Notwithstanding the foregoing, the following circumstances shall constitute grounds for dispensing with the need for consent to adoption, custody, guardianship or other disposition of the child: (i) the child has been abandoned; (ii) the parent has been convicted by a court of competent jurisdiction of the murder or voluntary manslaughter of another child of such parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter or of an assault constituting a felony which resulted in serious bodily injury to the child or to another child of the parent.

(5) Whenever the child is placed in family foster care, the court shall ensure that grandparents, upon their request, have access to reasonable visitation rights with the child who is the subject of the petition and that the department establishes a schedule for such visitation unless it is determined by the court or the department that such visitation is not in the child's best interests. In determining the best interests of the child, the court or the department shall consider the goal of the service plan and the relationship between the grandparents and the child's parents or legal guardian. Upon recommendation by the department or on its own accord, the court may establish reasonable conditions governing grandparent visitations, including but not limited to requiring that the grandparents be restrained from revealing the whereabouts of the child's placement. Grandparents who are denied visitation rights by the department may appeal through the department's fair hearing process.

The court shall, whenever reasonable and practical and based upon a determination of the best interests of the child, ensure that children placed in foster care shall have access to and visitation with siblings in other foster or pre-adoptive homes or in the homes of parents or extended family members throughout the period of placement in the care and custody of the commonwealth, or subsequent to such placements, if the children or their siblings are separated through adoption or long-term or short-term placements in foster care.

The courts shall determine, at the time of the initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive, or adoptive care, that such visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and the child, if reasonable, and other parties who are relevant to the preservation of sibling relationships and visitation rights.

Periodic reviews shall evaluate the effectiveness and appropriateness of the visitations between these siblings.

Any child who has attained the age of 12 years, may request visitation rights with siblings who have been separated and placed in care or have been adopted in a foster or adoptive home other than where the child resides.

(6) The court may order the parents or parent of said child to reimburse the commonwealth or other agency for care in appropriate cases.

(c) On any petition filed in any court pursuant to this section, the department, parents, person having legal custody of, counsel for a child, the probation officer, guardian or guardian ad litem may petition the court not more than once every 6 months for a review and redetermination of the current needs of such child whose case has come before the court, except that any person against whom a decree to dispense with consent to adoption has been entered pursuant to clause (4) of the subsection (b) shall not have such right of petition for review and redetermination. Unless the court enters written findings setting forth specific extraordinary circumstances that require continued intervention by the court, the court shall enter a final order of adjudication and permanent disposition, no later than 15 months after the date the case was first filed in court; provided, however, that the date by which a final order of adjudication and permanent disposition shall be entered may be extended once for a period not to exceed 3 months; and, provided, further, that said extension shall only be granted if the court makes written finding that the parent has made

consistent and goal-oriented progress likely to lead to the child's return to the parent's care and custody. Findings in support of such final order of adjudication and permanent disposition shall be made in writing within a reasonable time of the court's order. The court shall not lose jurisdiction over the petition by reason of its failure to enter a final order and the findings in support thereof within the time set forth in this paragraph.

SECTION 81. Said chapter 119 is hereby further amended by striking out section 26A, as so appearing, and inserting in place thereof the following section:—

Section 26A. When deciding whether to approve or reject a registration of interest for foster care placement, the department shall conduct a review of any misdemeanor offense discovered through a criminal offender record information search conducted pursuant to section 172B of chapter 6 in order to assist the department in accurately evaluating whether the mere existence of the offense has a substantial effect on the applicant's current or future ability to assume and carry out the responsibilities of a foster parent in such a manner that the rights of the child to sound health and normal physical, mental, spiritual and moral development are insured. The review shall include, but not be limited to, a review of the following: (i) the time that has elapsed between the date of the offense and the filing of the registration of interest, (ii) the seriousness and specific circumstances of the offense, (iii) the number and nature of other offenses, (iv) the age of the offender at the time of the offense, (v) the findings and recommendations of the family resource worker assigned by the department to discuss the facts surrounding the misdemeanor with the applicant, (vi) the recommendations given to the family resource worker by personal or employment references chosen by the applicant or received otherwise, (vii) the current and future needs of the child to be placed and the probable effect that the misdemeanor would have on the applicant's ability to fulfill those needs, (viii) any reports or recommendations received by the department from the applicant's parole or probation officer should 1 have been assigned, (ix) a copy of the police report pertaining to the offense in question if obtainable within a reasonable

period of time or discussions with a police officer familiar with the facts surrounding the offense and (x) discussions with the child to be placed regarding his current and past relationship with the applicant, unless these discussions are inappropriate. Nothing in this section shall be construed to affect the discretion of the department to approve or reject the registration of interest for foster care placement.

SECTION 82. Said chapter 119 is hereby amended by striking out section 28, as so appearing, and inserting in place thereof the following section:—

Section 28. (a) During the pendency of an action brought pursuant to section 24, temporary orders providing for the support of a child may be entered. The court may thereafter enter a judgment against the party chargeable with support. When the court makes an order of support on behalf of a party, and such party is not covered by a private group health insurance plan, the court shall determine whether the person chargeable with support has private health insurance or a group plan available to him through an employer or organization that may be extended to cover the party for whom support is ordered. When said court has determined that the person chargeable with support has such insurance, said court shall include in the order or judgment a provision relating to said insurance.

Any such order of support shall conform to and be enforced under section 12 of chapter 119A.

(b) Actions under this section to establish support of a child may be commenced by a parent, whether a minor or not; by the child; by the child's guardian, next of kin or other person standing in a parental relationship to the child; by the authorized agent of the department of children and families or any agency licensed under chapter 28A provided that the child is in their custody or is or was a recipient of any type of public assistance by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance, the department of children and families, the division of medical assistance, or any other public assistance program of the

commonwealth. In the event that someone other than the IV-D agency commences the action, if the parent or child is or was a recipient of any type of public assistance, the court shall notify said IV-D agency of the pendency of the action and said IV-D agency shall be permitted to intervene in the action.

(c) An order, or judgment of support pursuant to this section may be entered notwithstanding the default of the person chargeable with support or his failure to appear personally.

(d) In determining the amount of current support to be paid, the court shall apply the child support guidelines established by the chief administrative justice of the trial court, or, in the absence of such standards, shall consider the factors set forth in section 32 of chapter 209.

(e) The person chargeable with support shall comply with said order, or judgment until the same is dismissed or expires. When an action brought under section 24 of this chapter is dismissed or a final order of commitment is entered, the order or judgment of support shall expire 6 months after the judgment of dismissal or final order of commitment. At the time of such dismissal or final order of commitment, the court shall notify the parties and the IV-D agency, as set forth in chapter 119A, of the expiration date of the support order or judgment.

SECTION 83. Said chapter 119 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the follow section:—

Section 29. Whenever a child is before any court under paragraph C of subsection (2) of section 23 or sections 24 to 27, inclusive, or section 29B, the child shall have and be informed of the right to counsel at all hearings and that the court shall appoint counsel for the child if the child is not able to retain counsel.

Whenever the department or a licensed child placement agency is a party to child custody proceedings, the parent, guardian or custodian of the child (i) shall have and be informed of the right to counsel at all such hearings, including proceedings under sections 5 and 14 of chapter 201,

and that the court shall appoint counsel if he is financially unable to retain counsel and (ii) shall have and be informed of the right to a service plan or case plan for the child and his family which complies with applicable state and federal laws and regulations for such plans. The probate and family court department of the trial court shall establish procedures for (i) notifying the parent, guardian or custodian of these rights and (ii) appointing counsel for an indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing or appearing as a party in any such action. The department or agency shall provide a copy of the service or case plan to the parent, guardian or custodian of the child and to the attorneys for all parties appearing in the proceeding within 45 days of the department or agency filing an appearance in such proceeding. Thereafter, any party may have the original or changed plan introduced as evidence, and with the consent of all parties the plan shall be filed with the court. Notwithstanding this section, the court may make such temporary orders as may be necessary to protect the child and society.

The department, upon its request, shall be represented by the district attorney for the district in which the case is being heard.

SECTION 84. Said chapter 119 is hereby further amended by striking out section 29C, as so appearing, and inserting in place thereof the following section:—

Section 29C. If a court of competent jurisdiction commits, grants custody or transfers responsibility for a child to the department or its agent, the court shall certify that the continuation of the child in his home is contrary to his best interests and shall determine whether the department or its agent, as appropriate, has made reasonable efforts prior to the placement of a child with the department to prevent or eliminate the need for removal from the home; but, if a child has been placed voluntarily with the department by the parent under clause (1) of subsection (b) of section 23 and the parent consents to continued placement pursuant to a petition filed under said clause (1) or clause (2) of said subsection (b) of said section 23, the court shall determine at an initial hearing only whether continued placement is in the child's best interests. Except as provided herein, if a

court has previously committed, granted custody or transferred responsibility for a child to the department or its agent, the court shall determine not less than annually whether the department or its agent has made reasonable efforts to make it possible for the child to return safely to his parent or guardian. In making any determination, the health and safety of the child shall be of paramount concern.

Reasonable efforts by the department prior to removal of a child from the home or to return the child to a parent or guardian shall not be required if the court finds that:— (i) the child has been abandoned as defined in section 3 of chapter 210; (ii) the parent's consent to adoption of a sibling of the child was dispensed with under section 26 or under said section 3 of said chapter 210, or the parent's rights were involuntarily terminated in a case involving a sibling of the child; (iii) the parent has been convicted of 1 of the following crimes by a court of competent jurisdiction: (a) murder or voluntary manslaughter of another child of the parent or aiding, abetting, attempting, conspiring or soliciting to commit such a murder or voluntary manslaughter; or (b) an assault constituting a felony which resulted in serious bodily injury to the child or another child of the parent; or (iv) a parent has subjected the child to aggravated circumstances consisting of murder of another parent of the child in the presence of the child or by subjecting the child or other children in the home to sexual abuse or exploitation or severe or repetitive conduct of a physically or emotionally abusive nature. For the purposes of this section, conduct of an "emotionally abusive nature" shall mean any conduct causing an impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior. For the purposes of this section, "serious bodily injury" shall mean bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

If a court has determined at a permanency hearing convened pursuant to section 29B, that reasonable efforts to safely return the child to his parent or guardian are inconsistent with the

permanency plan for the child or if a court has determined that reasonable efforts are not required as set forth herein, the court shall determine at least annually thereafter whether the department has made reasonable efforts to place the child in a timely manner in accordance with the permanency plan determined and reviewed under section 29B.

The court shall make the certification and determinations required under this section in written form, which shall include the basis for the certification and determinations. A determination by the court that reasonable efforts were not made shall not preclude the court from making any appropriate order conducive to the child's best interest.

SECTION 85. Said chapter 119 is hereby further amended by striking out section 38, as so appearing, and inserting in place thereof the following 2 sections:—

Section 38. All hearings under sections 1 to 37, inclusive, except those related to court orders to not resuscitate or to withdraw life-sustaining medical treatment, shall be closed to the general public and it shall be unlawful to publish the names of persons before the court in any hearing provided for therein, except under section 21.

Section 38A. In any proceedings related to court orders to not resuscitate or to withdrawal life-sustaining medical treatment, the department shall require a written opinion from the child's treating physician and a written recommendation from the ethics committee of the hospital at which the child is a patient, and a written second opinion from a physician not affiliated with the hospital at which the child is a patient. All these documents shall be submitted to the court. The commissioner shall determine the department's recommendation to the court.

SECTION 86. Section 39½ of said chapter 119, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "of social services".

SECTION 87. Section 39E of said chapter 119, as so appearing, is hereby amended by striking out, in line 84, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 88. Section 39G of said chapter 119, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 89. Section 39H of said chapter 119, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 90. Said chapter 119 is hereby further amended by striking out section 51A, as so appearing, and inserting in place thereof the following section:—

Section 51A. (a) If a mandated reporter, in his professional capacity, has reasonable cause to believe that a child under the age of 18 years is suffering physical or emotional injury resulting from:— (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse, (ii) neglect, including malnutrition, or (iii) physical dependence upon an addictive drug at birth, he shall immediately communicate with the department orally and within 48 hours shall file a written report with the department detailing the suspected child abuse or neglect; but, if a mandated reporter is a member of the staff of a medical or other public or private institution, school or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall then become responsible for notifying the department in the manner required by this section.

(b) Any hospital personnel preparing a 51A report may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of such report without the

consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

(c) Any person who fails to comply with this section shall be punished by a fine of not more than \$1,000. Any person who knowingly files a frivolous 51A report shall be punished by a fine of not more than \$1,000. Any mandated reporter who willfully fails to report serious child abuse or neglect shall be punished by a fine of up to \$10,000 or imprisonment in a house of correction for up to 2 1/2 years or both; and the court or the appropriate licensing authority may suspend or revoke his state-issued professional license.

(d) Those mandated reporters who are licensed by the commonwealth may complete training to recognize and report suspected child abuse or neglect.

(e) The 51A reports shall contain (i) the names and addresses of the child and his parents or other person responsible for his care, if known;— (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment, or neglect, including any evidence of prior injuries, abuse, maltreatment, or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter, or otherwise assist the child; (vii) the name of the person or persons making such report; (viii) any other information which the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(f) Any mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the department, the district attorney for the county in which the death occurred, and the medical examiners as required by section 6 of chapter 38. Any person who fails to make these reports shall be punished by a fine of not more than \$1,000.

(g) Any person may file a 51A report if he has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(h) No mandated reporter shall be liable in any civil or criminal action for filing a 51A report. No other person filing a 51A report shall be liable in any civil or criminal action by reason of such report if it was made in good faith; provided, however, that such person did not perpetrate or inflict said abuse or cause said neglect. Any person filing a 51A report may be liable in a civil or criminal action if the department or the district attorney determines that he may have perpetrated or inflicted the abuse or caused the neglect.

(i) No employer shall discharge, discriminate or retaliate against a mandated reporter who in good faith files a 51A report, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

(j) Within 60 days of receiving a 51A report from a mandated reporter, the department shall notify him in writing of its determination of the nature, extent and cause or causes of the injuries to the child, and the services that the department intends to provide to the child or his family.

(k) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a 51A report or a care and protection petition filed under section 24. Notwithstanding said section 20A of said chapter 233, a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner shall report all cases of suspected abuse or neglect under this section, but need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected child abuse or neglect under this section when the priest, rabbi, clergy member,

ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a reporter.

SECTION 91. Section 51A of said chapter 119 is hereby amended by striking out subsection (d), as appearing in section 90 of this act, and inserting in place thereof the following subsection:—

(d) Those mandated reporters who are licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

SECTION 92. Said chapter 119 is hereby further amended by striking out section 51B, as so appearing, and inserting in place thereof the following section:—

Section 51B. (a) Upon receipt of a 51A report, the department shall investigate the suspected child abuse or neglect, provide a written evaluation of the household of the child, including the parents and home environment, and make a written determination about the safety and risk of the child and whether the suspected child abuse or neglect is substantiated.

If the department has reasonable cause to believe the child's health or safety is in immediate danger from further abuse and neglect, the investigation and evaluation shall commence within 2 hours of initial contact and a determination shall be made within 24 hours; otherwise the investigation and evaluation shall commence within 2 working days of initial contact and a determination shall be made within 15 working days, unless a waiver has been approved by the area director or requested by law enforcement.

The investigation shall include:— (i) a home visit at which the child is viewed, if appropriate, (ii) a determination of the nature, extent and cause or causes of the injuries, (iii) the identity of the person or persons responsible therefor, (iv) the name, age and condition of other children in the same household, (v) an evaluation of the parents and the home environment, and (vi) all other pertinent facts or matters. The department shall coordinate with other agencies to

make all reasonable efforts to minimize the number of interviews of any potential victim of child abuse or neglect.

Upon completion of the investigation and evaluation, the department shall make a written determination about (i) the safety of and risk of physical or emotional injury to that child and any other children in the same household and (ii) whether the suspected child abuse or neglect is substantiated.

(b) If a child named in the 51A report is in an out-of-home placement and the suspected child abuse or neglect is substantiated, the department shall notify his parents that a 51A report was filed and has been substantiated by the department. If the child died or was seriously injured, the department shall notify the biological parents of other children in the same placement. The department shall consult with these parents in decisions about removal or further placement. These notifications and consultations shall not be required if the commissioner determines that they are not appropriate or in the best interests of the children.

(c) The department shall take a child into immediate temporary custody if it has reasonable cause to believe that the removal is necessary to protect the child from further abuse or neglect. If a child is taken into immediate temporary custody, the department shall make a written report stating the reasons for such removal and shall file a care and protection petition pursuant to section 24 on the next court day;

(d) The department shall offer appropriate services to the family of any child which it has reasonable cause to believe is suffering from any of the conditions described in the report to prevent further injury to the child, to safeguard his welfare, and to preserve and stabilize family life whenever possible. If the family declines or is unable to accept or to participate in the offered services, the department or any person may file a care and protection petition under section 24.

(e) The department shall file in the central registry, established under section 51F, a written report containing information sufficient to identify each child whose name is reported pursuant to section 51A or 51B. A notation shall be sent to the central registry whenever further reports on

each such child are filed with the department. If the department determines during the initial screening period of an investigation that said report under section 51A is frivolous, or other absolute determination that abuse or neglect has not taken place, then said report shall be declared as "allegation invalid". If such reports are declared "allegation invalid", the name of the child, or identifying characteristics relating to the child, or the names of his parents or guardian or any other person relevant to the report, shall not be placed in the central registry or in any other computerized program utilized in the department.

(f) The department shall utilize or purchase and utilize such protective services of private and voluntary agencies as it determines necessary.

(g) The department shall promulgate regulations to implement the sections 51A to 51F, inclusive.

(h) The department shall immediately notify and shall transmit copies of 51A reports and its written evaluations and written determinations to the district attorney for the county in which the child resides, to the district attorney for the county in which the suspected abuse or neglect occurred, to the local law enforcement authorities in the town in which the child resides, and to the local law enforcement in the town in which the suspected abuse or neglect has occurred, if the department has reasonable cause to believe:

(1) that, as a result of abuse or neglect, a child has died or has suffered brain damage, loss or substantial impairment of a bodily function or organ, substantial disfigurement, or serious physical injury, including, but not limited to, a fracture of any bone, a severe burn, an impairment of any organ, an injury requiring the child to be placed on life-support systems;

(2) that a child has been sexually assaulted, as set forth in sections 13B, 13H, 22, 22A, 23, 24, and 24B of chapter 265 or section 35A of chapter 272;

(3) that a child has been sexually exploited, which shall mean encouraging a child to engage in prostitution as defined in sections 4A and 4B of said chapter 272 or in the obscene or

pornographic photographing, filming, or depicting of a child as defined in section 29A of said chapter 272; or

(4) any other disclosure of physical abuse involving physical evidence which may be destroyed, any current disclosure by the child of sexual assault, or the presence of physical evidence of sexual assault.

Within 45 days of the notification under the first paragraph, the department shall further notify the district attorney of the service plan, if any, developed for such child and his family.

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F of this chapter relating to confidential data or confidential communications shall prohibit the department from making such notifications or from providing to the district attorney any information obtained pursuant to this section. No person providing notification or information to a district attorney pursuant to this section shall be liable in any civil or criminal action by reason of such action. Nothing herein shall be construed to prevent the department from notifying a district attorney relative to any incidents reported to the department pursuant to section 51A or to limit the prosecutorial power of a district attorney.

(i) If the department substantiates a report alleging that abuse or neglect occurred at a facility operated by a person subject to licensure or approval under section 10 of chapter 28A, the department shall notify the department of early education and care in writing by transmitting a copy of the 51A report and its written evaluation and determination. The departments may coordinate their activities conducted under this section and paragraph (f) of said section 10 of said chapter 28A. No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F of this chapter, or any other provision of law, shall prohibit the department from transmitting a copy of the reports prepared under sections 51A and 51B to the department of early education and care, or prohibit both departments from conducting coordinated activities and sharing information between both departments as herein provided, or from having its employees testify at administrative hearings held by said office in connection with matters about which said

department has provided notice to said office under this section. If the department is made aware of information or circumstances indicating a licensing violation in any such facility, the department shall immediately notify the department of early education.

No provision of chapter 66A, sections 51E and 51F of this chapter, or any other provision of law shall prohibit said office from providing information to said department in connection with matters about which said department has provided notice to said office under this section.

(j) If the department substantiates a report alleging that abuse or neglect occurred at a facility owned, operated or funded, in whole or in part, by the department of mental health, the department of mental retardation, the department of public health, and the department of youth services, the department of children and families shall notify the affected department in writing by transmitting a copy of the 51A report and its written evaluation and written determination. The departments may coordinate their activities conducted under this section. No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, and of sections 51E and 51F of this chapter, or any other provision of law, shall prohibit the department of children and families from transmitting copies of 51A reports or its written evaluations and written determinations to any of these departments or from conducting coordinated activities and sharing information between these departments as herein provided, or from having its employees testify at administrative hearings held by any of these departments in connection with matters about which the department of children and families has provided notice to any of these departments under this section.

(k) Notwithstanding any privilege created by statute or common law relating to confidential communications or any statute prohibiting the disclosure of information, any mandated reporter who has information which he believes might aid the department in determining whether a child has been abused or neglected pursuant to an investigation under this section shall, if requested by the department, disclose such information relevant to the specific investigation to the department. Such statutory or common law privileges shall not preclude the admission of any such

information in any civil proceeding concerning abuse or neglect of a child, placement or custody of a child.

(l) No person required to provide such information pursuant to this section or permitted to disclose information pursuant to section 5A of chapter 119A shall be liable in any civil or criminal action for providing such information.

(m) No employer shall discharge, discriminate or retaliate against a mandated reporter who in good faith provides such information, testifies or is about to testify in any proceeding involving child abuse or neglect; provided, however, that such person did not perpetrate or inflict such abuse or neglect. Any employer who discharges, discriminates or retaliates against such a person shall be liable to such person for treble damages, costs and attorney's fees.

(n) If the department determines that a 51A report is not substantiated, the department shall notify in writing any and all sources or recipients of information in connection with the investigation that the report of abuse or neglect has not been substantiated, unless the target of the investigation requests that such notification not occur.

SECTION 93. Said chapter 119 is hereby amended by inserting after section 51G the following section:—

Section 51H. Notwithstanding any law to the contrary, the department may send to or receive from any other state or country a protective alert containing any information about a child related to a substantiated report of child abuse or neglect if the department reasonably believes that the child has been or will be transported to another state or country.

SECTION 94. Said chapter 119 is hereby amended by striking out section 63 and inserting in place thereof the following section:—

Any person who shall be found: (i) to have caused, induced, abetted, or encouraged or contributed toward the delinquency of a child, (ii) to have acted in any way tending to cause or

induce such delinquency, (iii) to have knowingly and willfully aided or abetted a child under the age of 17 years, or under the age of 18 years and in state custody, to violate an order of a juvenile court, or (iv) to have knowingly and willfully concealed or harbored a child who has taken flight from the custody of the court, his parents, his legal guardian, the department of children and families or the department of youth services may be punished by a fine of not more than \$500 or by imprisonment of not more than 1 year, or both. The court may release on probation under section 87 of chapter 276, subject to such orders as it may make as to future conduct tending to cause, induce or contribute to such delinquency, or it may suspend sentence under section 1 of chapter 279, or before trial, with the defendant's consent, it may allow the defendant to enter into a recognizance, in such penal sum as the court may fix, conditioned to comply with such terms as the court may order for the promotion of the future welfare of the child, and the said case may then be placed on file. The provisions for recognizance in section 56 shall be applicable to cases arising hereunder. The divisions of the juvenile court department shall, within their respective territorial limits, have exclusive jurisdiction over complaints alleging violations of this section.

SECTION 95. Section 2 of chapter 119A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 21 and in lines 35 and 36, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 96. Section 3 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 97. Section 5 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 23, the words “social services” and inserting in place thereof, in each instance the following words:— children and families.

SECTION 98. Section 5A of said chapter 119A, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 99. Section 2 of chapter 201 of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 100. Section 32F of chapter 209 of the General Laws, as so appearing, is hereby amended by striking out, in line 17, in lines 28 and 29, and in line 42, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 101. Section 5 of chapter 209C of the General Laws, as so appearing, is hereby amended by striking out, in line 9, lines 13 and 14, and in line 54, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 102. Section 8 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 17, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 103. Section 9 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 67, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 104. Section 11 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 36, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 105. Section 13 of said chapter 209C, as so appearing, is hereby amended by striking out, in lines 9, 13 and 15 the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 106. Section 16 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 44, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 107. Section 2 of chapter 210 of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 108. Section 2A of said chapter 210, as so appearing, is hereby amended by striking out, in lines 5 and 14, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 109. Section 3 of said chapter 210, as so appearing, is hereby amended by striking out, in lines 7 and 55, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 110. Section 4 of said chapter 210, as so appearing, is hereby amended by striking out, in line 13, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 111. Section 4A of said chapter 210, as so appearing, is hereby amended by striking out, in line 11, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 112. Section 5A of said chapter 210, as so appearing, is hereby amended by striking out, in lines 2 and 3, in lines 39 and 40 and line 52, the words “social services” and inserting in place thereof, in each instance, the following words:— children and families.

SECTION 113. Section 5E of said chapter 210, as so appearing, is hereby amended by striking out, in line 1, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 114. Section 6 of said chapter 210, as so appearing, is hereby amended by striking out, in line 21, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 115. Section 6C of said chapter 210, as so appearing, is hereby amended by striking out, in lines 35 and 36, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 116. Section 11A of said chapter 210, as so appearing, is hereby amended by striking out, in line 2, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 117. Section 5 of chapter 258C of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words “departments of social services and public welfare” and inserting in place thereof the following words:— department of children and families and the department of transitional assistance.

SECTION 118. Section 3 of chapter 273 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 119. Section 18A of said chapter 273, as so appearing, is hereby amended by striking out, in line 26, the words “social services” and inserting in place thereof the following words:— children and families.

SECTION 120. The name of the department of social services is hereby changed to the department of children and families.

SECTION 121. Notwithstanding section 51B of chapter 119 of the General Laws or any other general or special law to the contrary, the department of children and families may establish a pilot program of family engagement in child welfare practice.

The pilot program shall use a local unified entry point for (i) requests for voluntary services filed under section 23 of chapter 119 of the General Laws, (ii) court referrals, including those for children in need of services filed under section 39E of said chapter 119, and (iii) reports of suspected child abuse or neglect filed under section 51A of said chapter 119.

Upon entry of any such request, referral or report, the department shall have a period of initial engagement during which the request, referral or report shall be evaluated and a differential response, if any, shall be determined; but if the department has reasonable cause to believe the child's health or safety is in immediate danger from abuse or neglect, the department shall also view the child, conduct a safety assessment, and take any steps necessary to ensure the safety of the child. A rapid initial engagement for the latter circumstances shall commence within 2 hours and shall be completed within 36 hours; all other initial engagements shall be completed within 3 business days. The department shall determine whether the request, referral or report is appropriate for response and, if so, which differential response is appropriate: a protective response, a support and stabilization response or a community resource response.

A protective response shall be required if the department determines that the child has been or is at risk of serious harm. The protective response shall be conducted pursuant to said section 51B, except that the investigation shall be completed within 15 business days of the differential response determination unless a waiver has been approved by the area director or requested by law enforcement.

A support and stabilization response shall require department contact with the child's family within 2 business days of the differential response determination and an initial assessment of the family within 30 business days of the determination. Such a response shall include at least 3 department visits with the child's family and may include the immediate provision of services.

A community resource response shall consist of providing information about and referral to community-based services. Such a response shall not include an investigation or a family assessment by the department.

After the completion of a protective response or a support and stabilization response and based on a family assessment, the department may determine that sustained engagement with the child's family is necessary. During sustained engagement, family assessments shall be conducted every 6 months until the department terminates its sustained engagement.

The pilot program may be implemented in 4 to 8 area offices selected by the department. The pilot program shall include an independent evaluation, including the impact on children and families, the effect on racial disproportionality and disparity, the associated costs, any recommendations for statewide implementation, and shall survey children, families, and staff involved with the pilot program.

The pilot program shall include the use of (i) evidence-based safety and risk assessment tools, (ii) family assessments, (iii) resource and service planning activities, (iv) culturally competent staffing, resources and practices, and (v) the use of social worker teams based on caseload standards recommended by the Child Welfare League of America, Inc.

The department shall report the results of the evaluation and legislative recommendations, if appropriate, no later than January 1, 2009. The report shall be filed with the clerks of the house and the senate, the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the speaker of the house, the president of the senate and the governor.

SECTION 122. Section 91 shall take effect as of January 1, 2009.